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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,232	12/05/2003	Roger Thomas	P-US-PR 1111	9216
28268	7590	05/17/2007		
THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD, TW199 TOWSON, MD 21286			EXAMINER SELF, SHELLEY M	
			ART UNIT 3725	PAPER NUMBER
			MAIL DATE 05/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

SP

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/729,232		THOMAS, ROGER	
	<b>Examiner</b>		<b>Art Unit</b>	
	Shelley Self		3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/16/07</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on February 16, 2007 has been considered but is ineffective to overcome the prior art reference.

### ***Claim Objections***

The recitation, "it", claim 1, line 16 is not clear, Examiner suggests clear and positive recitation, to what "it" refers, for example, --said debris--.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Eichberger et al. (5,815,934). Eichberger disclose a planer comprising: a shoe, the shoe defining an aperture (fig. 1); a body (fig. 1) mounted on the shoe, the body including a wall (31, 32, 48), the wall defining a recess; a cutting drum (15) rotatably mounted within the recess (fig. 1), the drum (15) having a periphery and a portion of the periphery of the cutting drum projects through the aperture in the shoe (fig. 1); a motor (18) mounted within the body to drive the cutting drum (15); a cutting blade (col. 3, lines 18-24) mounted on the periphery of the drum and adapted for cutting a work

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piece, the cutting action of the blade causing debris created by the cutting to be ejected from the recess (col. 4, lines 46-51); an airflow generator (11) for producing an airflow within the body (col. 4, lines 31-35); a conduit (28, 29, 30) defined within the body for directing the airflow; an expulsion aperture defined by the wall in the body; and a deflector connectable to the conduit wherein the conduit is directly connected to the recess by the expulsion aperture and the conduit directs the airflow to be blown across the expulsion aperture.

As to the recitation "directly connected", Examiner notes that the conduit is directly connected to the recess (18) so as to allow discharge of the debris that is generated by the cutting drum (15) within the recess.

***Allowable Subject Matter***

Claim 1 is allowed.

The following is an examiner's statement of reasons for allowance: The prior art of record does not disclose or fairly suggest a planer *comprising wherein a conduit directs the airflow over the exterior of the deflector, then downward to the vicinity of the recess wherein debris is entrained by the airflow and then to the interior of the deflector before the debris is guided by the deflector to the outside of the body* in combination with the rest of the claimed limitations as set forth in claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

Applicant's arguments filed February 16, 2007 have been carefully considered but they are not persuasive. Applicant's remarks are drawn to the failure of the prior art, Eichberger to disclose a "*conduit directly connected to a recess*". Applicant further argues that Eichberger teaches an air channel (30) that is not connected to the drum compartment/recess (18) wherein the cutting drum is located and that the presence of lower boundary wall (32) in Eichberger prohibits direct connection between the recess and conduit. This argument is not deemed persuasive because Eichberger teaches a conduit (28) in communication with an air channel (30) so as to entrain and remove debris generated by the cutting drum (15) in the recess (18). The conduit (28) is directly connected to the recess (18). Therefore, Eichberger discloses the invention as claimed. Accordingly the rejection(s) in view of Eichberger stand.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Shelley Self  
Primary Examiner  
Art Unit 3725

May 13, 2007